

# DECLARATION OF PRINCIPLES ON TRADE AND ENVIRONMENT

*We must do more to ensure that spirited economic competition among nations never becomes a race to the bottom. We should be leveling environmental protections up, not down. International trade rules have increasingly important implications for the environment. They must be supportive of national policies that provide for high levels of environmental protection and effective enforcement.*

*--William Jefferson Clinton  
March 15, 1999*

## **General Points**

Economic growth must be pursued in the broader context of sustainable development, which integrates economic, social, and environmental<sup>1</sup> policies. Thus, trade policies must be complemented by policies that provide for high levels of environmental protection and effective enforcement of environmental laws at the national level.

The long-term maintenance of a prosperous economy requires a healthy environment, and vice versa. Trade liberalization and environmental protection are therefore both vitally important objectives. We are committed to pursuing both objectives and ensuring that they are mutually supportive. We will do this through a variety of different means, including but not limited to the upcoming WTO round.

Our broader efforts on the environmental front are reflected in our robust domestic regulatory framework, our support for strengthening international environmental institutions, our commitment to effective multilateral environment agreements, and our unwavering advocacy of transparent and accountable decision making by both national governments and international institutions.

For example, at the international level we are seeking to:

- strengthen UNEP's ability to help developing countries improve their capacity to protect their environment;
- preserve fragile ocean habitats through the International Coral Reef Initiative;
- protect the ozone layer through the Montreal Protocol;
- conserve the world's threatened biological diversity through the Global Environment Facility and our own bilateral assistance programs;
- strengthen the protection of threatened and endangered species through the implementation of the Convention for International Trade in Endangered Species (CITES);
- reduce or eliminate the dangers posed by hazardous chemicals in the U.N. initiatives on Prior Informed Consent and Persistent Organic Pollutants;
- increase conservation and sustainable management of shared fisheries;

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<sup>1</sup> The term environment is used in this statement broadly to also include health, safety, and the conservation of natural resources.

- promote higher environmental standards for the activities supported by international financial institutions and common environmental guidelines for national export credit agencies of all OECD countries; and,
- address the challenge of climate change and pursue clean energy development strategies.

Moreover, we are assisting other countries in developing national laws, enforcement mechanisms, and compliance monitoring systems, as well as providing scientific and technical assistance, to address environmental challenges, and will continue to do so. We are also supporting similar efforts led by international environmental organizations.

In the context of preparations for the Seattle Ministerial Conference, our proposals for the elimination or reduction of environmentally-harmful subsidies, tariffs and other barriers to trade are examples of our efforts to advance sustainable development through trade liberalization. By reducing trade barriers such as these, trade liberalization can promote competition and more efficient resource use, as well as contribute to higher standards of living and a cleaner environment.

Proceeding from our belief that trade liberalization must contribute to sustainable development, we will pursue trade liberalization in the new round of trade negotiations in a manner that is supportive of our commitment to high levels of protection for the environment. In particular, we will do so by:

- Taking fully into account environmental implications throughout the course of the negotiations, including by performing a written environmental review.
- Promoting institutional reforms to ensure that the WTO and its processes, notably dispute settlement, are transparent and that the public may contribute to its work.
- Strengthening cooperation between the WTO and international organizations with respect to environmental matters.
- Identifying and pursuing “win-win” opportunities where opening markets and reducing or eliminating subsidies hold promise for yielding direct environmental benefits.
- Complementing our trade policies with policies that provide for high levels of environmental protection and effective enforcement of our laws.
- Ensuring that trade rules are supportive of and do not undermine our ability to maintain and enforce fully our environmental laws.
- Ensuring the appropriate inclusion on U.S. trade negotiation teams of environmental, health and safety officials, and encouraging our trading partners to do likewise.

### ***Taking Environment Into Account in Trade Negotiations***

In order to ensure that the new round contributes to sustainable development, we are committed to

identifying and taking into account environmental implications of the negotiations throughout the course of the negotiations. This will be done through a variety of means.

Environmental reviews are an important tool for identifying a negotiation's potential environmental effects, both positive and negative, and facilitating consideration of appropriate responses to those effects either in the negotiations, through other means, or both.

For the new round, we will perform a written environmental review of its likely environmental consequences, with public input and sufficiently early in the process to be taken into account in formulating our positions in the negotiations. We have encouraged all WTO members to perform such reviews and are pleased that several have indicated their intentions to do so.

We have also proposed that the WTO's Committee on Trade and Environment be given the role of helping throughout the round to identify, discuss, and inform national deliberations and the negotiating groups on the environmental implications of the negotiations. At the same time, each negotiating group must address the environmental issues relevant to its work.

It is also essential that environmental agencies continue to participate actively with other agencies in the trade policy-making process.

### ***Transparency and Openness***

Transparency and openness are vital to ensuring public understanding of and support for the WTO and all international institutions. The United States has been a staunch advocate for WTO reforms, including greater interaction and exchange of information with the public through the creation of consultative mechanisms; provision of timely access to a wider range of documents such as submissions to dispute settlement panels, the findings and conclusions of dispute settlement panels, and WTO meeting minutes; provision of avenues for the filing of amicus briefs; opening dispute settlement meetings in WTO disputes; and improvement of compliance with established notification requirements that provide access to information on national laws and practices. The United States will continue to pursue a strengthening of the WTO's consultative mechanisms with stakeholders, particularly during the course of the new round.

While these reforms are critical to ensure the public a role in the multilateral trading system, transparency and openness are no less important at home. To this end, it is essential to keep the public informed about the negotiations and engage in regular dialogue between governments and stakeholders. We are committed to maintaining such informed dialogue as an important part of the policy-making process, in particular for the new round of trade negotiations, and we encourage other countries to do so as well.

### ***Relations with International Environment Organizations***

We support strong and effective cooperation between the WTO and international environmental organizations, including UNEP and the FAO, to contribute to coherence between trade and environment policies. We welcome the experience and expertise that such organizations have contributed to trade and environment discussions in the WTO and believe that such collaboration should be deepened.

This cooperation will be particularly valuable in the new round, and we will continue to look for and build on opportunities to capitalize on the expertise within the individual organizations and to ensure an integrated policy approach. In this connection, we welcome UNEP's proposal for a cooperation agreement with the WTO and will work with other WTO members to bring such an agreement to fruition.

### ***Capacity-Building***

The U.S. supports and will continue to promote capacity-building initiatives with other countries to help achieve high levels of environmental protection and effective enforcement. It is important that such continued work is undertaken to support the efforts of our trading partners to pursue environmental protection in tandem with trade liberalization. Closer cooperation with existing international organization, such as UNEP, should facilitate these efforts.

### ***Win-Win Opportunities***

We believe that WTO members must continue to work together to identify and take advantage of opportunities where its work on trade liberalization can also contribute to environmental protection through the elimination of subsidies and market access barriers that have harmful environmental effects.

We are actively pursuing such win-win opportunities in our call for:

- the elimination of tariffs on environmental goods and the liberalization of trade in environmental services to expand and accelerate diffusion of environmental technology, provide access to the latest methods of pollution prevention, and lower the cost of achieving environmental objectives;
- the elimination of harmful fishery subsidies that are contributing to overcapacity which in turn has lead to unsustainable patterns of fishing, as evidenced by serious depletion of global marine resources;
- the elimination of agricultural export subsidies and the continued transition away from those domestic subsidy programs that encourage degradation of natural resources and distort trade. The extensive use of these trade distorting subsidies and other practices have contributed to the overuse of crop production inputs, soil degradation, overgrazing, and other unsustainable practices.

We will continue to work with other countries and stakeholders to identify other possible areas where trade liberalization, including the elimination of environmentally harmful subsidies, can directly contribute to both economic growth and environmental protection.

### ***WTO Rules***

This Administration's commitment to strong and effective protection of the environment is fully consistent with the international trading system, which permits Members to establish and pursue environmental

protection while ensuring against trade protectionist abuse.

The WTO rules affirm that countries have the right to establish the levels of environmental protection that they deem appropriate. We will ensure that trade rules continue to be supportive of and do not undermine the ability of governments, including at the state and local levels, to establish and achieve their chosen levels of environmental protection -- even when such levels of protection are higher than those provided by international standards -- in a manner consistent with our commitment to science-based regulation.

### ***Precaution***

Precaution is an essential element of the US regulatory system given that regulators often have to act on the frontiers of knowledge and in the absence of full scientific certainty. We believe that this precautionary element is fully consistent with WTO rules, which make clear that a regulatory agency may take precautionary action where there is a rational basis for concern based upon available pertinent information. We will insist that this ability to take precautionary action be maintained in order to achieve our environmental objectives.

At the same time, precaution must be exercised as part of a science-based approach to regulation, not a substitute for such an approach. In this connection, the term precaution must not be used as a guise for trade protectionist measures as this would have the effect of casting doubt upon, and even undermining, environmental as well as trade policy objectives.

### ***Deference***

We believe that WTO rules recognize that there can be legitimate differences of view on scientific and technical issues in the development of health, safety, and environmental measures. WTO dispute settlement decisions in this area already reflect a considerable degree of deference to domestic regulatory authorities on scientific and technical matters. For example, in determining whether a measure is based on sufficient scientific evidence, as is required under the WTO Agreement on Sanitary and Phytosanitary Measures (SPS), dispute settlement panels have found that there need only be a demonstration of a rational or objective relationship between the measure and the scientific evidence to satisfy the requirement.

The United States will use appropriate opportunities to work to ensure that WTO jurisprudence continues to accord such deference. In this connection, we welcome the WTO Appellate Body's recognition that dispute settlement panels cannot engage in *de novo* review of scientific and technical judgments.

We are confident that WTO panels will show such deference to U.S. regulators given the integrity, rigor, and open and participatory nature of the U.S. regulatory system.

### ***Equivalence***

The SPS Agreement's provisions on equivalence (i.e., a WTO member's acceptance of another member's measure as equivalent to its own) reflect that importing parties, based on scientific or other objective information, may determine that an exporting party has not objectively demonstrated that its measures are equivalent to those of the importing party. Under these provisions, the United States is not required to

accept an import that it believes, based on such information, does not achieve the level of protection sought by U.S. regulations.

### ***PPMs***

Measures based on processes and production methods (PPMs) have long been used in domestic environmental policy as an important and effective tool to protect the environment.

In the international context, however, the use of trade restrictions based on the way products are produced has engendered controversy. We would note that the Appellate Body report in the Shrimp/Turtle dispute concluded that such measures may be permissible when they are used to pursue legitimate environmental objectives. However, that report also makes clear that such measures must meet the rules of the trading system which guard against abuse. For example, trade measures based on a PPM must not be unjustifiably discriminatory or a disguised restriction on trade.

We will enforce those measures that are in place or are adopted in the future, and we will continue our existing policy to evaluate, on a case-by-case basis, when trade measures, including those based on PPMs, should be adopted to protect the environment.

### ***Ecolabeling***

Market-based approaches to environmental challenges, such as environmental labeling programs (ecolabels), are important and effective policy tools but should not be misused as hidden forms of trade protectionism.

Consumers have a legitimate interest in the environmental impacts of the products that they buy. Providing accurate information to consumers is an important market-based means of engaging consumers in and achieving health and environmental objectives. We will promote a domestic and international environment that is supportive of such approaches.

We believe and will defend our position that WTO rules provide sufficient flexibility to permit all forms of ecolabeling, including those involving criteria based on processes and production methods and those developed and maintained by private bodies, subject to the relevant disciplines of the multilateral trading system, including transparency and non-discrimination.

## ***MEAs***

The international community has developed a wide range of treaties and agreements to protect the environment. Multilateral environmental agreements are important for addressing environmental challenges of concern to all humankind. In this connection, trade measures can be a critical means of achieving internationally-agreed environmental goals and objectives when carefully tailored and appropriately applied, as exemplified, *inter alia*, in the Convention on International Trade in Endangered Species and the Montreal Protocol. Trade measures in MEAs are broadly accommodated by the WTO.

We also believe that it is important that environment and trade officials work closely together and respect each others expertise in the context of negotiating and implementing both MEAs and trade agreements.

## ***Investment***

The United States believes that, like trade and the environment, investment and environment can also be mutually supportive and we are committed to ensuring that they are. We are actively engaged in analytic work in the OECD to address concerns raised in that forum regarding the relationship between international investment rules and the environment.

With respect to the possibility of supporting the development of investment rules in the WTO, the United States is opposed to any effort to launch a comprehensive investment negotiation in the new round. Nevertheless, we are reviewing the proposals which other countries have tabled to determine whether there are any elements that would be of interest to us in the WTO and that would be consistent with our commitment to maintain and defend high levels of environmental protection.